

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

1. NATIONAL CREDIT SOLUTIONS, LLC,)	
)	
)	
Plaintiff,)	
)	
)	
vs.)	Case No. <u>CIV-12-644-L</u>
)	
1. TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA)	
)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant, Travelers Casualty and Surety Company of America ("Travelers"), pursuant to 28 U.S.C. §1441 and §1446, respectfully submit this Notice of Removal and in support hereof, allege and state as follows:

1. On May 4, 2012, Plaintiff filed his Petition in the District Court for Oklahoma County, State of Oklahoma, styled *National Credit Solutions, LLC v. Travelers Casualty and Surety Company of America*, Case No. CJ-2012-2674. The summons was served on Travelers on May 8, 2012. A copy of the state court docket sheet, together with copies of all process, pleadings, and orders filed in the case and served on Defendant are attached hereto as Exhibit "A."

2. Plaintiff's Petition, on its face, asserts that the parties are citizens of different states and that the amount in controversy exceeds the sum or value of \$75,000.00. Specifically, Plaintiff asserts that it is organized and exists under the laws of the State of Connecticut and has its principal place of business in a state other than Oklahoma. Further, Plaintiff asserts that Travelers is organized and exists under the laws of the State of Oklahoma and has its principal

place of business in Oklahoma. In Plaintiff's Petition, Plaintiff seeks a declaratory ruling under the insurance contract between Plaintiff and Travelers, that Travelers has a duty to provide it with a defense to another lawsuit. Notably, 28 U.S.C. §1332(c)(1) does not apply to preclude diversity jurisdiction because this is not a direct action. A distinction is made between actions where the suit involves a tort claimant against the tortfeasor's insurance carrier in which the tortfeasor is not a party and cases, such as this one, where a plaintiff sues its insurer seeking to obtain contractual benefits according to the terms of a policy of insurance. *See Tuck v. United Service Auto. Ass'n*, 859 F.2d 842 (10th Cir. 1988) (finding that "unless the cause of action urged against the insurance company is of such a nature that the liability sought to be imposed could be imposed against the insured, the action is not a direct action."); *Fleming v. Allstate Ins. Co.*, 709 F.Supp. 216 (D. Colo. 1989) (stating Section 1322(c) does not apply to actions between insurer and the insured or one afforded the status of an insured); *Watkins v. Allstate Ins. Co.*, 503 F.Supp. 848 (D.C. Mich. 1980); *Henderson v. Selective Ins. Co.*, 369 F.2d 143 (6th Cir. 1966). Lastly, Plaintiff's Petition alleges on its face that the insurance policy at issue has coverage with limits of \$1,000,000.00 and the action for which Plaintiff seek a defense asserts claims against Plaintiff in the amount of \$8,400,000.00.

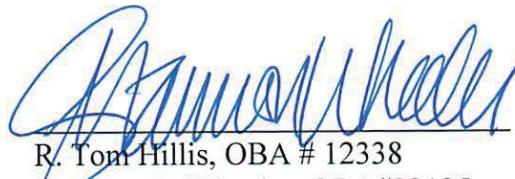
3. Accordingly, this action is removable pursuant to 28 U.S.C. §1441(b), which permits any civil action brought in any state court in which the district courts of the United States have original jurisdiction, such as cases involving diversity jurisdiction pursuant to 28 U.S.C. §332(a), to be removed to the district court of the United States for the district where the state court action is pending.

4. This Notice of Removal is being filed within thirty (30) days after service of the Petition on the Defendants, as required by 28 U.S.C. §1446(b).

5. A copy of this Notice of Removal will be filed with the Clerk of the District Court in and for Oklahoma County, State of Oklahoma and served upon all adverse parties, as required by 28 U.S.C. §1446(d).

For the above reasons, the Defendant, Travelers Casualty and Surety Company of America hereby give notice of removal of this action pending in the District Court in and for Oklahoma County, State of Oklahoma.

Respectfully submitted,



R. Tom Hillis, OBA # 12338
Shannon P. Wheeler, OBA#22125

TITUS HILLIS REYNOLDS LOVE

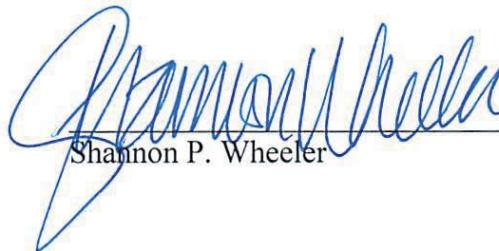
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*Attorneys for Travelers Casualty and Surety
Company of America*

CERTIFICATE OF MAILING

I do hereby certify that on the 6th day of June, 2012, I mailed a true and correct copy of the foregoing document by U.S. Mail with proper postage thereon fully prepaid to:

Jason A. Sansone
3680 East I-240 Service Road
Oklahoma City, OK 73135



Shannon P. Wheeler